

MARK A. KLAASSEN, United States Attorney
JEREMY A. GROSS (WY Bar #7-5110), Assistant United States Attorney
United States Attorney's Office
P.O. Box 668
Cheyenne, WY 82003-0668
Tel: 307-772-2124
jeremy.gross@usdoj.gov

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

10/21/2019 AM 10:21

MARGARET BOTKINS, CLERK
CHEYENNE

KATE S. O'SCANNLAIN, Solicitor of Labor
CONNIE M. ACKERMANN, Acting Regional Solicitor
JOHN RAINWATER, Associate Regional Solicitor
LYDIA TZAGOLOFF, Counsel for Wage & Hour
Alicia Truman, Trial Attorney
1244 Speer Blvd, Ste. 515
Denver, CO 80204
Tel: 303.844.0975

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

EUGENE SCALIA, SECRETARY OF
LABOR, U.S. DEPARTMENT OF LABOR,
Plaintiff,
v.

BLACKJEWEL, LLC, a corporation,
BLACKJEWEL HOLDINGS, LLC, a
corporation, REVELATION ENERGY
HOLDINGS, LLC, a corporation,
REVELATION MANAGEMENT
CORPORATION, a corporation,
REVELATION ENERGY, LLC, a
corporation, DOMINION COAL
CORPORATION, a corporation, HAROLD
KEENE COAL CO., LLC, a corporation,
VANSANT COAL CORPORATION, a
corporation, LONE MOUNTAIN
PROCESSING, LLC, a corporation,
POWELL MOUNTAIN ENERGY, LLC, a
corporation, and CUMBERLAND RIVER
COAL, LLC, a corporation,

Defendants.

COMPLAINT

Case No. 19cv217-J

COMPLAINT

Plaintiff Eugene Scalia, Secretary of Labor, United States Department of Labor (“Plaintiff”) brings this action to enjoin Blackjewel, LLC, Blackjewel Holdings, LLC, Revelation Energy Holdings, LLC, Revelation Management Corporation, Revelation Energy, LLC, Dominion Coal Corporation, Harold Keene Coal Co., LLC, Vansant Coal Corporation, Lone Mountain Processing, LLC, Powell Mountain Energy, LLC, and Cumberland River Coal, LLC (collectively, “Defendants”) from violating the provisions of Sections 6, 7, and 15(a)(2) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (“the Act”), and to restrain them from withholding the total amount of unpaid back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act.

1. Jurisdiction of this action is conferred upon the Court by Sections 16(c) and 17 of the Act, 29 U.S.C. §§ 216(c) and 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Defendants are, and at all times hereinafter referenced were, corporations with headquarters at 1051 Main Street, Milton, WV 25541. Defendants are in the business of operating surface and underground coal mines, preparation or wash plants, and loadouts or tipples at multiple facilities in Virginia, West Virginia, Kentucky and Wyoming. Defendants operated two mines in Wyoming—Belle Ayr at 2273 Bishop Road, Gillette, WY 82718, and Eagle Butte, at 10023 Highway 14-16, Gillette, WY 82716—both located within the jurisdiction of this Court.

3. At all times hereinafter mentioned, Defendants have been an enterprise within the meaning of Section 3(r) of the Act, in that Defendants have been, through unified operation or common control, engaged in the performance of related activities for a common business purpose. These activities constituted (and/or were related to) providing security services in the furtherance of the business purposes of Defendants’ unified business entity.

4. At all times relevant herein, Defendants have employed, and are employing, employees in and about their place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. Specifically, employees handle, sell and otherwise work with coal produced for interstate commerce. Further, at all times relevant herein, Defendants have had annual gross volume sales made or business done of not less than \$500,000, thereby affording coverage over all their employees pursuant to Section 3(s)(1)(A) of the Act.

5. During the period from June 24, 2019 through July 1, 2019 (“relevant period”), Defendants employed the individuals listed in the attached Schedule A (collectively referred to hereinafter as “employees”) at some point during the relevant period.

6. Defendants violated the provisions of Sections 6 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce and compensating these employees at rates less than the applicable statutory minimum rate prescribed in Section 6 of the Act. However, because all of the employees who worked during the relevant period worked overtime hours, i.e., hours in excess of 40 in a workweek, Defendants are liable for unpaid wages for the first 40 hours worked in a workweek at the employees’ regular rates of pay rather than at the applicable statutory minimum rate described in Section 6 of the Act.

7. For example, during the relevant period, Defendants paid employees a pay rate less than the minimum wage. Defendants failed to pay employees any wages for hours worked. Defendants’ failure to pay their employees for hours worked violated Sections 6 and 15(a)(2) of the Act but must be compensated at the employees’ regular rate of pay.

8. Defendants violated the provisions of Sections 7 and 15(a)(2) of the Act by employing their employees in an enterprise engaged in commerce or in the production of goods for commerce for workweeks longer than those prescribed in Section 7 of the Act without compensating said employees for hours worked over 40 in a workweek at rates not less than one and one-half times their regular rates. Therefore, Defendants are liable for the payment of unpaid overtime.

9. For example, during the relevant period, Defendants failed to compensate their employees who worked over 40 hours in a workweek one and one-half times their regular rate. Defendants failed to pay employees any wages for hours worked over 40 in a workweek. This practice violated Sections 7 and 15(a)(2) of the Act.

10. As a result of the violations alleged above, amounts are owed for hours worked that were paid at rates less than the rate set forth in Sections 6 and 7 of the Act for the employees named in Schedule A attached to this Complaint. Additional amounts may be due to other employees employed by Defendants during the time period covered by this Complaint (and continuing up to the time Defendants demonstrate that they came into compliance with the Act) whose identities are not now known to the Plaintiff.

11. During the relevant period, Defendants continually violated the provisions of the Act as alleged above. A judgment permanently enjoining and restraining the violations herein alleged is specifically authorized by Section 17 of the Act, 29 U.S.C. § 217.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendants providing the following relief:

(a) For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in

active concert or participation with Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 6 and 7 of the Act; and

(b) For an injunction issued pursuant to Section 17 of the Act restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding the amount of unpaid wages and overtime compensation found due to certain of Defendants' current and former employees listed in the attached Schedule A for the period of June 24, 2019 through at least July 1, 2019, and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of Defendants listed in the attached Schedule A for violations taking place before June 24, 2019 and continuing after July 1, 2019, and may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint, who may be identified during this litigation and added to Schedule A

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Dated this 21st day of October, 2019.

Respectfully submitted,

KATE S. O'SCANNLAIN
Solicitor of Labor

CONNIE M. ACKERMANN
Acting Regional Solicitor


JOHN RAINWATER
Associate Regional Solicitor

LYDIA TZAGOLOFF
Counsel for Wage and Hour

ALICIA TRUMAN
Trial Attorney
U.S. DEPARTMENT OF LABOR

United States Department of Labor
Office of the Solicitor
1244 Speer Boulevard, Suite 515
Denver, Colorado 80204-3516
Tel. (303) 844-0975
Fax (303) 844-1753
truman.alicia.a@dol.gov

MARK A. KLAASSEN
United States Attorney



JEREMY A. GROSS
Assistant United States Attorney
U.S. DEPARTMENT OF JUSTICE

SCHEDULE A

Abbott, John M.
Adams, Frances P.
Amstadt, Robert S.
Anderson, Gretchen A.
Anderson, Jared R.
Anderson, Tyrel G.
Anton, Karissa J.
Applegate, Mikenzie L.
Araujo, Samuel
Arehart, Mark E.
Baer, Robert S.
Bagwell, Bradee R.
Baity, Benjamin J.
Baity, Ronald E.
Baker, Branden H.
Barbour, Payton J.
Barron, James A.
Barron, Roger W.
Bartelt, Scott D.
Basner, Elliot J.
Beard, Richard E.
Beck, William R.
Becker, Kevin L.
Bellack, Kenneth L.
Bennett, Cecilia M.
Bennett, Shane W.
Bennett, Thomas L.
Benson, Dacota R.
Bentz, Ronald L.
Bergfield, Kenneth D.
Berkey, Amy M.
Berkey, David C.
Biley, Kasey D.
Black, Brandi J.
Blake, Joseph P.
Blankenship, Jeffrey D.
Blare, Jan M.
Blizzard, Roderick T.
Bowman, Branden J.
Bowman, Bryce L.
Boyd, Lee G.

Boyer, Frank W.
Brafford, Korey A.
Braun, Kasey M.
Brewer, Rhonda M.
Bridge, Matthew M.
Briggs, David G.
Briggs, Robert W.
Brigham, Harold D.
Britt, Alisia M.
Brown, Austin C.
Brown, David A.
Brown, Durk F.
Brown, Ethan S.
Bruns, William A.
Bryan, Jerry R.
Buckner, Charles D.
Buechler, Brendon J.
Bullinger, Keasha A.
Bundy, Bradly M.
Bundy, Michael M.
Burger, Raymond E.
Burkhardt, Travis J.
Campbell, Polli L.
Camphouse, Terry L.
Carlson, Kendal R.
Carriveau, Paul A.
Carstens, Phillip J.
Carter, Daniel L.
Carter, Steven K.
Case, Dustin G.
Castle, David A.
Castle, Natalie B.
Cavanaugh, Seth M.
Chaffee, Robert A.
Chapell, Jason R.
Chapman, Ryan J.
Choate, Robert W.
Christopherson, Justin C.
Clemetson, Breann E.
Clough, David A.
Coleman, Charles P.
Coleman, Jacob D.
Colvin, Buck C.

Connally, Travis L.
Connelly, Paul A.
Conway, Nicholas S.
Cook, Shane M.
Cooley, Annastaria L.
Coolley, Joel J.
Cooper, Paul M.
Copeland, Cleeche' S.
Cordingly, Ty L.
Cossette, Joshua A.
Cundy, Scott E.
Daly, Patrick W.
Darrow, Kimberly K.
Davis, Vincent E.
DeCent, Rod O.
Decker, William D.
Dehner, Chad H.
Dewey, Fredrick A.
Dietsche, John P.
Dillie, Jason E.
Dillinger, Danielle M.
Dillinger, Phillip J.
Dixon, Jimmy K.
Dobyns, Jason S.
Dodrill, Scot D.
Donner, Jeffrey H.
Dorn, Stanley L.
Dow, Kerry F.
Doyle, David B.
Dudley, Jarik M.
Dunbar, Joshua D.
Duncan, Jacob V.
Eddy, Keela A.
Edmondson, Mychal T.
Eich, Nathan C.
Elliott, Earl G.
Elliott, George D.
Ellis, Brandon L.
Engelbrecht, David L.
Engelhaupt, Thomas L.
Englebert, Chance L.
Erickson, Kenneth W.
Eskew, Chad T.

Farley, Christopher R.
Farley, Michael W.
Fehlberg, Reed A.
Fenner, Clancy J.
Filhart, Michael A.
Fischer, Darwin G.
Fisher, Timothy E.
Flores-Gonzalez, Eligio
Fluharty, Weylan G.
Fogle, Gene W.
Foster, William J.
Fox, Kenneth D.
Frey, Courtney B.
Fritz, Deanna M.
Gales, Douglas E.
Gammon, Colton A.
Gammon, Kevin A.
Gammon, Travis R.
Garcia, Consuello T.
Garcia, Joseph A.
Garcia, Paul M.
Garner, Michael R.
Garry, Michael P.
Gass, Perry A.
Gedrose, Travis M.
Glatt, Robert J.
Glenn, Jennifer L.
Glick, Travis A.
Golay, Jerith D.
Gomez, Ronald J.
Greear, Robert W.
Grendahl, Lori K.
Griffin, Heather L.
Griffith, Austin J.
Guffey, Brandon D.
Guffey, Zachary T.
Gulley, Tyler B.
Gunderson, Jeffery J.
Gustafson, Arlyn J.
Guzman Mejia, Jose A.
Hakert, Bob R.
Halverson, Oscar E.
Haney, Trevor L.

Hansen, Marlys M.
Hansen, Paul E.
Hanson, Dewain P.
Hanson, Eric K.
Hantak, Charles F.
Harris, Eldon R.
Harris, James D.
Harris, Jared D.
Harrod, Richard L.
Hartsoch, James C.
Harvey, Dan L.
Hatzenbuehler, Codi L.
Hatzenbuehler, Phillip R.
Hawley, Darla R.
Haynes, William L.
Hays, Lee A.
Hedges, Lilia R.
Helgoe, Orlin B.
Helm, James C.
Helwig, Daniel P.
Hensley, Charlie L.
Hensley, Robert J.
Hernandez, John A.
Herrmann, Carol A.
Herther, Shane C.
Heying, Kelly D.
Hieb, Carey L.
Hildebrandt, Detlef J.
Hodson, Catherine K.
Hoffman, Clint R.
Hoffman, Jake E.
Hofmeister, John S.
Holzer, Steven D.
Homan, Patrick R.
Honaker, Marcus J.
Hooks, Tandie R.
Hoppes, Eric C.
Hovdenes, Richard P.
Howard, Dale L.
Howard, Keegan L.
Hubbell, Charles A.
Huckins, Anthony P.
Hudson, Ryan J.

Hullinger, Corey E.
Humphrey, Donald L.
Hunt, Tyrell P.
Hunting, Jerel C.
Huntley, Glen L.
Hurd, Lin G.
Huskinson, Lynne
Isenberger, Robert E.
Javaid, Fahad
Jensen, Derek D.
Jensen, James K.
Jensen, Summer R.
Jodozi, Kristine K.
Johansen, Lauren R.
Johnson, Clifford O.
Johnson, Duane E.
Johnson, Joshua J.
Johnson, Patrick M.
Jones, John T.
Jones, Tracey J.
Juarez, Israel J.
Kanash, Gregory A.
Kasperek, Michael J.
Kelley, Brian J.
Kemerling, William B.
Kenyon, Albert H.
Kenyon, Tyrel S.
Kimbly, Jesse L.
King, Megan B.
King, Steven J.
Kingsbury, Ernest L.
Kipp, Shawn E.
Kline, Alan W.
Kline, Paul A.
Kline, Thomas L.
Knutson, Nichole L.
Koepke, Richard P.
Koester, Lori M.
Kohl, Benjamin J.
Korinek, Kelly J.
Kornemann, Kelly J.
Kottke, Garth I.
Kramer, Tommy M.

Kratz, LeaAnn S.
Landreth, Steven N.
LaVallie, Shaelynn B.
Layne, Davie D.
Leair, David M.
Leslie, Zacharia G.
Lien, Terrance L.
Lindgren, Reid A.
Lingo, Shawn D.
Linkous, Levi R.
Lish, Kandi S.
Loughlin, Arden L.
Lounsberry, Aaron W.
Lovell, Wyatt T.
Lukert, Davy J.
Lyman, Ian J.
Lyman, Trinity L.
Lynch, John S.
Lynch, Thomas D.
MacDonald, Richard J.
Madsen, William D.
Mai, Michael A.
Maki, Chase W.
Manke, Stephen R.
Mankin, Kelly H.
Marowelli, Tyler J.
Marshall, William E.
Martin, Leonard T.
Mayzsak, Randy J.
McClure, Tammy L.
McCollum, Lance J.
McElwain, Travis W.
McKee, Connie L.
McKinsey, Joshua
McKinsey, Triston R.
McLaughlin, Sean C.
McMackin, Christopher J.
Means, William D.
Meek, Randy J.
Merritt, Toby J.
Michael, Garrett T.
Michels, Brian T.
Miller, Eric D.

Miller, Gerald J.
Miller, Kolter G.
Miller, Matthew A.
Miller, Nicky J.
Miller, Tanya M.
Milliken, Ross R.
Mills, Bryan K.
Mitchell, Frank E.
Mitchell, Jeremy E.
Mitchell, Thad E.
Moffitt, Anthony P.
Moffitt, David L.
Moore, Douglas M.
Moore, Jimmy D.
Mounts, Kenneth P.
Mullins, Sammy R.
Munoz, Matthew J.
Myers, Sheila M.
Nannemann, Trent J.
Nelson, Annalies K.
Nelson, Dale D.
Ness, Alexandria N.
Newman, Justin J.
Nichols, Crystal A.
Nichols, Ernest D.
Nichols, Jesse W.
Nichols, Jordan S.
Nolte, Robert B.
Nordhougen, Michael B.
Norris, Wade J.
Norskog, Tyler W.
Nuzum, Justin W.
Oehlert, Shawn M.
Oehlert, Vicky K.
Ogden, Tristen M.
Oliver, Daniel L.
Oliver, Sarah A.
Olson, Anthony M.
Orchard, Christopher W.
Ottema, Miranda K.
Otten, Robert W.
Owens, Randall S.
Palone, Elizabeth M.

Parrish, Daniel K.
Parsons, Cale J.
Parsons, Grant L.
Paschall, Karl L.
Patterson, Annette S.
Patterson, Chase W.
Paulson, Shari J.
Pederson, Kenneth R.
Perez, Eric B.
Perez, Homero
Peters, Marshall S.
Petersen, Miles S.
Peterson-Worden, Melissa A.
Pfenning, Henry S.
Pierce, Holly J.
Pilcher, Casey R.
Pilcher, Christopher C.
Pimm, Aaron A.
Plough, Jacob K.
Poppleton, Dennis T.
Porter, Christina K.
Porter, Galen L.
Potter, Shawn A.
Preiss, Scott A.
Price, Emily G.
Price, Rolland E.
Queen, Scott D.
Quiroz, Teresa A.
Radensleben, Shane M.
Ramirez, Dillon R.
Rea, Darlene K.
Reichard, James W.
Reister, Justin C.
Renz, Brian E.
Reynolds, Clinton D.
Reynolds, Nancy L.
Rheuff, Seth T.
Rhodes, Christopher V.
Richard, Byron P.
Richardson, Steven E.
Riggle, Susan L.
Rightly, Christian W.
Rinker, Gary D.

Ripley, Kenton W.
Roberts, Michael R.
Rogers, Donovan L.
Rogers, Thomas A.
Rogi, Joseph
Rohrbach, Heather N.
Romo, Joshua J.
Roth, Russell A.
Rothleutner, Eric M.
Rott, Jeffrey J.
Roush, Gretchen L.
Roush, Jeffrey A.
Rowley, Bud W.
Saavedra, Nicholas A.
Sachse, Peter W.
Safford, Aaron R.
Salmon, Tory G.
Sanburn, Erin K.
Sanfilippo, Shana M.
Sather, LeRoy N.
Schanck, Henry R.
Schatz, Dakotah C.
Schirmer, Michael S.
Schmidt, Cary E.
Schmitt, Sheila M.
Schnaible, Timothy L.
Schneider, Dwayne E.
Schommer, Zachary H.
Schutt, Jefferson L.
Semler, James D.
Septka, Casey C.
Shields, Jeremiah J.
Shoun, Miles B.
Sipe, Daniel L.
Skinner, Kyle R.
Smith, Breona R.
Smith, Logan J.
Solem, Shayne L.
Somers, Matthew J.
Spain, Joshua A.
Sparby, Brooklynn M.
Spaur, Brian D.
Spomer, Gary D.

Sprayberry, Joy L.
Starr, Mark J.
Stewart, William C.
Strande, Vikki L.
Suppes, Michael L.
Suppes, Vonda K.
Tarter, Wynn S.
Taylor, James S.
Terrazas, Anthony B.
Terry, Stephen M.
Thomas, Shaun T.
Thybo, Rhonda D.
Timm, Karla J.
Tousignant, Scott R.
Townsend, Steven A.
Trompke, Richard D.
Tubbs, John D.
Turner, Tyler R.
Van Horn, Barbara J.
Vandergrift, Rusty L.
Vaughn, Eric E.
Vetter, Bryan A.
Viergutz, Vern G.
Vokenroth, Deborah L.
Vokenroth, Rudi T.
Vonada, Matthew D.
Waldner, Samantha E.
Walker, Jamie L.
Walker, Louis M.
Walker, Michael S.
Walker, Ryan R.
Wallett, Rory A.
Walters, Jack M.
Warax, David W.
Wasserburger, Jeremiah H.
Webber, Daniel B.
Wegner, Justin R.
West, Courtney M.
West, Kristen A.
White, April Lynn C.
White, Jecybelle C.
White, Vaughn K.
Wiard, Michael C.

Wiechert, Kameron M.
Wiitala, Chad W.
Wiitala-Lindgren, Carrie L.
Wik, Jon E.
Willbanks, Ronald J.
Williams, Dwayne
Williams, Gary R.
Williams, Jacob T.
Willrodt, Andreas
Wimber, Ryan H.
Wineteer, Tara D.
Wintermute, Brian E.
Wise, John E.
Woods, Deonandre D.
Worden, Chad D.
Wulf, Darin G.
Yates, Casey S.
Young, Michelle L.
Zahrowski, Chad A.
Zarecky, Daniel L.
Ziegler, Travis D.
Zimmerman, Serena M.
Zufelt, Brian M.